THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE M. VENKATESWARA REDDY

WRIT PETITION No: 5178 of 2006

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Date: 21.03.2006

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Between:

The Govt., of A.P. rep., by its Secretary,

Home Department, Secretariat, Hyderabad

& others.

… Petitioners.

AND

Jagannath

… Respondent.

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND

THE HON'BLE MR JUSTICE M. VENKATESWARA REDDY

ORDER:- (PER THE HONOURABLE JC,J)

Aggrieved by an order of the Administrative Tribunal in O.A.No.7713 of 2003,dated

10.08.2005, the respondents therein preferred the present writ petition.

The respondent herein was appointed as Police Constable in the year 1967. He retired from service from 31.01.2001 after attaining the age of superannuation. It appears while he was in service, pursuant to a disciplinary proceeding the respondent was removed from service with effect from 06.03.1974. However, he was reinstated into service by the Government pursuant to the orders issued in G.O.Ms.No.84, dated 05.02.1979. By the said order, the punishment was modified from removal to a lesser punishment of stoppage of increments for two years with certain other conditions. It appears, pursuant to the abovementioned orders, the respondent was reinstated and at the stage of reinstatement, it is alleged that the pay of the respondent was wrongly fixed ignoring the conditions imposed in the abovementioned G.O. This fact apparently came to light when the pension papers of the respondent were being processed. Therefore, proceedings were issued by the 3rd petitioner herein directing recovery of the amount paid in excess what is due to the respondent pursuant to the wrong fixation of pay referred to earlier and the pension of the respondent was infact computed on the basis of what should have been the appropriate amount of last drawn pay payable to the respondent, but for the mistake committed earlier.

Aggrieved by the said order, the respondent approached the Administrative Tribunal. The Administrative Tribunal upheld the decision of the petitioners to compute the pension payable to the respondent in accordance with what should have been the last drawn pay of the respondent, however, came to the conclusion that the decision of the petitioners to recover the amount paid in excess what is due to the respondent to be un-sustained. Hence, the writ petition.

The Tribunal recorded a finding that there was no fault on the part of the respondent which led to the wrong fixation of the pay of the respondent on his reinstatement and which took place almost a quarter century ago. In the circumstances, the Tribunal came to the conclusion that seeking to recover the amount paid in excess after such a long lapse of time is not permissible. We do not see any reason to interfere with the order impugned.

Accordingly, the writ petition is dismissed at the admission stage.

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J.CHELAMESWAR, J

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M. VENKATESWARA REDDY, J

Date: 21.03.2006

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